



Case Report

1	Case Number	0416/17
2	Advertiser	Ubet
3	Product	Gaming
4	Type of Advertisement / media	Poster
5	Date of Determination	27/09/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.8 - Excess participation Condone or imply excess participation

DESCRIPTION OF THE ADVERTISEMENT

Poster image with UBET written at the top and the words "Biggest Loser" - 12 Noon to 4pm. Prizes every half hour, with a \$25 redemption punt for the biggest loser!

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

We wish to complain about the tone and content of the gambling advertising poster below. This advertisement for 'The Biggest Loser' is in a licensed hotel in Queensland (Jubilee Hotel, Brisbane).

We note the Queensland responsible gambling Code of Practice, states:

The gambling industry provides safe and supportive environments for the delivery of gambling products and services and Actions of the gambling provider Responsible advertising and promotions will reflect decency, dignity and good taste and adhere to prevailing community standards.

We note the AANA WAGERING ADVERTISING & MARKETING COMMUNICATION CODE states:

2.8 Advertising or Marketing Communication for a Wagering Product or Service must not

portray, condone or encourage excessive participation in wagering activities.

- *Glorifies gambling in a harmful way – by providing a prize for the person who loses the most, every half hour, every Saturday afternoon.*
- *Chasing losses – contrary to all the Gamble Responsibly messages the industry promotes, this poster encourages a gambler to chase their loss. In fact, the message is specific to a gambler's losses and offers an inducement for them to attempt to recover their losses in the form of a "redemption Punt".*
- *Failure to incorporate a responsible gambling message – in addition to encouraging patrons to chase their losses we note this poster does not incorporate any type of responsible gambling message.*

Please advise as to what steps have been taken in relation to this inappropriate and irresponsible promotion. Ubet is deliberately promoting harmful gambling on so many levels.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

UBET has considered the complaint and section 2 of the AANA Advertiser Code of Ethics and offers the following information and comments to assist the consideration of the complaint at the forthcoming meeting of the Advertising Standards Board.

Description of advertisement

The poster complained of was advertising an in-store retail promotion developed and conducted by A.N. Burnett Investments Pty Ltd atf The Jubilee Hotel Unit Trust ("Agent") at the Jubilee Hotel, 470 St Pauls Terrace, Fortitude Valley, QLD, 4006 ("Jubilee Hotel").

The Agent has advised that the Promotion was available at the Jubilee Hotel on Saturdays between 12pm and 4pm ("Promotion Period"). Customers who placed a bet in-store at the Jubilee Hotel during the Promotion Period were eligible to place their losing tickets into a draw barrel. The Agent then conducted a random draw every half hour during the Promotion Period, by which the customer whose losing ticket was drawn would win either a free beverage, a small meat tray or a free \$25 bet.

The Promotion was a local-area marketing initiative and the Promotion did not extend beyond the Jubilee Hotel.

Comments in relation to the complaint

The Promotion complained of was in no way condoned or conducted by UBET, but was a promotional initiative developed independently by the Agent without UBET's prior knowledge or consent.

The Agency Agreement between UBET QLD Limited and the Agent requires that any marketing material employed by the Agent not be offensive, misleading or against responsible gambling principles. Further to this, it is a requirement of the Agency Agreement that any promotional material created by the Agent which utilises the UBET name or logo must first be approved by UBET.

Unfortunately in this instance the Agent has failed to provide the promotional material to UBET for review prior to the Promotion being made available in-store. As such, UBET did not have an opportunity to review the promotional concept or the associated creative before it was made available to customers and remind the Agent of their responsible gambling obligations. UBET has now issued a breach notice to the licence holder of the agency.

Requirements of Section 2 of the AANA Code of Ethics

While UBET does not believe that the Promotion breaches the AANA Code of Ethics, UBET accepts that the Promotion may offend section 2.8 of the AANA Wagering Advertising & Marketing Communication Code. Although the Agent's intention was not to encourage excessive gambling or to promote a mentality of "chasing losses", UBET concedes that the way the Promotion has been marketed may give this impression to some customers.

Immediately upon becoming aware of the Promotion, UBET contacted the Agent and instructed them to cease running the Promotion and to remove any associated promotional material. A UBET Regional Manager then visited the Jubilee Hotel to ensure that the promotional material had been removed.

UBET has now spoken with the Agent and reminded them of their obligations in relation to any marketing material, particularly in respect of the need to first have any such material reviewed and approved by UBET. The Agent and their management team will also be required to review the UBET responsible gambling training materials and re-confirm their understanding of and compliance with these obligations.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (Wagering Code) or Section 2 of the AANA Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement glorifies gambling and encourages people to chase their losses.

The Board viewed the advertisement and noted the advertiser's response.

The Board noted that the advertiser is a company licensed in a State or Territory of Australia to provide wagering products or services to customers in Australia and that the product advertised is a wagering product or service and therefore the provisions of the Wagering Code apply.

The Board considered Section 2.8 of the Wagering Code which provides: "Advertising or

Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.”

The Board noted this poster advertisement features the text, “Biggest Loser – 12 noon to 4pm. Prizes every half hour, with a \$25 redemption punt for the biggest loser!”

The Board considered whether this is a depiction of wagering ‘activities’ and noted that there is no definition of a wagering ‘activity.’ The Board considered that the promotion of a ‘redemption punt’ along with an image of horse racing can be reasonably interpreted as a wagering activity in the context of an advertisement for a wagering product.

The Board then considered whether this was ‘excessive’ participation in wagering activities.

The Board noted the Practice Note to Section 2.8 of the Wagering Code which provides: “Simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season, does not equate to portraying excessive participation. An advertisement or marketing communication would portray, condone or encourage excessive participation in wagering activities where it depicts...[a number of examples]...” Whilst the Practice Note lists three examples the Board considered that this did not restrict the application of Section 2.8.

The Board noted the advertisement states, “Prizes every Half Hour”. A minority of the Board noted that the advertisement does not contain a call to action to place a bet every half hour and considered that the promotion of a period of time where prizes are available is not of itself an encouragement of excessive participation in wagering activities or chasing losses.

The majority of the Board noted it had previously upheld a complaint about excessive participation in wagering activities in case 0447/16. Board noted in that instance that the Board’s determination had been subject to an Independent Review where the Reviewer found that,

“It did not necessarily indicate an addiction since there is no suggestion that this was a regular event. Nonetheless, in my opinion, it was open to the Board to find that the wagering activity was excessive during this trip due to the intensity of the focus of the men on the wagering activity.”

The majority of the Board considered that the phrase, “Prizes every Half Hour” is strongly suggestive of encouraging participation in a wagering activity on a frequent basis during a person’s visit to the premises and that encouraging a bet every half hour is, in the Board’s view, portraying or encouraging excess consumption.

The majority of the Board noted that the advertisement also states that there is a \$25 ‘redemption punt’ for the biggest loser and considered that this is a reward for people who have lost money and in the context of prizes being offered every half hour in the Board’s view the advertisement is promoting excessive participation in wagering activities with the additional encouragement of a prize even if you are losing.

The majority of the Board noted there is a high level of community concern with regards to excessive gambling and considered that the message of the advertisement is contrary to this concern as it encourages and condones excess participation in wagering activities.

The Board noted the advertiser's response that the advertisement was made by a third party and was not provided to them for approval prior to being displayed. The Board noted the advertiser has taken steps to ensure that the third party undertakes training to ensure understanding and compliance with the relevant Codes for advertising.

The majority of the Board considered that the advertisement does portray, condone or encourage excessive participation in wagering activities and determined that the advertisement did breach Section 2.8 of the Wagering Code.

Finding that the advertisement did breach the Wagering Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

I refer to your letter dated 28 September 2017 advising UBET of the Advertising Standards Board's (ASB) decision in response to the complaint received in regards to a recent in-store retail promotion which featured the UBET logo (the "Promotion").

I note the ASB's determination that the Promotion breached section 2.8 of the AANA Wagering and Marketing Communication Code.

As has been previously advised in our original response dated 15 September 2017, UBET had no knowledge of the Promotion and did not in any way authorise or condone the Promotion or its association with UBET. As soon as UBET became aware of the Promotion, UBET contacted the Agent in question and instructed them to cease running the Promotion.

The Agent in question has now received a formal breach notice and has undertaken additional responsible gambling training to remind them of their obligations under the Queensland Responsible Gambling Code of Practice.

UBET does not agree with the determination made by ASB in this instance, particularly as this activity was undertaken by a third party agent without UBET's knowledge or consent. As such, UBET has lodged a request for independent review of this determination.